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7
8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10
11 TOLAVIUS TIMMONS,

12 Plaintiff,

13 v.

14 LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; CAPTAIN ANDREW
15 PERALTA; ARAMARK; BONNIE POLLEY;
16 LT. YANCEY TAYLOR; SGT. FRANC
CADET; LEONEL VERDUZCO; SHERIFF
JOE LOMBARDO,

17 Defendants.

Case No. 2:17-cv-00361-JAD-NJK

**ARAMARK SERVICES INC.'S MOTION
FOR EXTENSION OF TIME TO FILE
RESPONSIVE PLEADING**

[FIRST REQUEST]

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20 Defendant Aramark Services, Inc., by and through its counsel, Wood, Smith, Henning &
21 Berman, LLP, hereby moves this Court for a thirty (30) day extension of time to answer or otherwise
22 respond to Plaintiff, Tolavius Simmons' Second Amended Complaint [ECF 8], filed on October 11,
23 2018, in the above-entitled action.

24 This motion is made and based upon the pleadings and papers on file, and the memorandum of
25 points and authorities herein.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL HISTORY

On October 11, 2018, Plaintiff filed his Second Amended Complaint [ECF 8]. Thereafter, on January 29, 2019, the Court entered an Order [ECF 11] allowing certain causes of action in Plaintiff's Second Amended Complaint to proceed. A Summons [ECF 12] was issued to Aramark on January 30, 2019, and Aramark was then served with Plaintiff's Second Amended Complaint on April 4, 2019. As such, an Answer or other response to the Complaint is due on or before April 24, 2019. Upon receipt of Plaintiff's Second Amended Complaint, Aramark began the process of reviewing Plaintiff's Complaint and obtaining the pertinent records, which are necessary to effectively respond to Plaintiff's Complaint and defend the instant action.¹ Despite Aramark's diligent efforts, further time is needed to respond to Plaintiff's Second Amended Complaint.

II. LEGAL ANALYSIS

FED. R. CIV. P. 6(b) provides:

- 1) *In General*. When an act may or must be done within a specified time, the court may, for good cause, extend the time:
 - (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or
 - (B) on motion made after the time has expired if the party failed to act because of excusable neglect.
- (2) *Exceptions*. A court must not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d) and (e), and 60(b).

LR IA 6-1 provides in pertinent part:

- (a) A motion or stipulation to extend time must state the reasons for the extension requested and must inform the court of all previous extensions of the subject deadline the court granted. . . . A request made after the expiration of the specified period will not be granted unless the movant or attorney demonstrates that the failure to file the motion before the deadline expired was the result of excusable neglect. Immediately below the title of the motion or stipulation there also must be a statement indicating whether it is the first, second, third, etc., requested extension. . . .
- (b) The court may set aside any extension obtained in contravention of this rule.

Rule 6(b)(1) allows for a party to move for an enlargement of time, the determination of which lies with the presiding court. "The Court has inherent power and discretion to control its docket, and

¹ See Declaration of Christina M. Mamer, Esq., attached hereto as **Exhibit "A."**

1 the proceedings within the cases on its docket." *Ford v. County of Missoula, Mont.*, 2010 WL
2 2674036, 1 (D. Mont., 2010) (citing *Landis v. North American Co.*, 299 U.S. 248, 254 (1936); *see also*
3 Fed. R. Civ. P. 6(b) (advisory committee note, 1946) ("Rule 6(b) is a rule of general application giving
4 wide discretion to the court to enlarge these limits or revive them after they have expired . . .").

5 Defendant is requesting an extension of time to file its answer or other response to Plaintiff's
6 Second Amended Complaint [ECF 8] before the deadline has expired. Defendant is making this
7 request based upon good cause to gather key pieces of information that are necessary to effectively
8 defend the instant action and properly respond to Plaintiff's Second Amended Complaint. Since
9 receiving Plaintiff's Second Amended Complaint, Aramark has begun the process of requesting
10 information from individual(s) that may have personal knowledge of the events described in Plaintiff's
11 Second Amended Complaint, however, further time is needed to gather the requested information. As
12 such, Aramark respectfully requests a thirty (30) day enlargement of time in which to file an Answer
13 or otherwise respond to Plaintiff's Second Amended Complaint, up to and including May 24, 2019.

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1 **III. CONCLUSION**

2 Based upon the foregoing, Aramark requests a thirty (30) day extension of time to respond to
3 Plaintiff's Second Amended Complaint up to and including May 24, 2019. This request is being made
4 in good faith and not for the purpose of delay.

5 April 23, 2019

6 WOOD, SMITH, HENNING & BERMAN LLP
7 Attorneys at Law

8
9 By /s/ Christina M. Mamer

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19 Attorneys for Aramark Services, Inc.

20 **IT IS SO ORDERED.**

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23 UNITED STATES MAGISTRATE JUDGE

24 DATED: April 24, 2019